

*Mississippi State Board of Nursing Home Administrators*

*1755 Lelia Drive, Suite 305*

*Jackson, MS 39216*

Pursuant to the authority vested in the Mississippi State Board of Nursing Home Administrators, the said Board has promulgated and by these presents, does hereby publish Rules and Regulations of the Mississippi State Board of Nursing Home Administrators of the State of Mississippi as authorized by the Laws of the State of Mississippi, Chapter 17, of the Mississippi Code of 1972, amended, to be effective June 30, 2011.

Thomas E. Hill, Chairman

Mark A. Adams

A. D. Buffington

Brian Cain

Dr. Virginia Cora

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Dr. Elizabeth Tinnon

(Last updated 06/30/11)

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RULES AND REGULATIONS OF THE  
MISSISSIPPI STATE BOARD OF NURSING HOME ADMINISTRATORS

**Title 30: Professions and Occupations**

**Part 2701: Organization and Structure**

**Part 2701 Chapter 1: Organization and Structure**

Rule 1.1      Source of Authority: Title

The Rules and Regulations herein contained constitute, comprise, and shall be known as the "Rules and Regulations of the Mississippi State Board of Nursing Home Administrators," and are hereby promulgated pursuant to the authority granted to, and imposed upon, the said Board under and pursuant to the provisions of the State licensing statute (Sections 73-17-1 et seq. of the Mississippi Code of 1972, Annotated).

Source: *Miss. Code Ann. Sections 73-17-7(2) and 73-17-9(Rev. 2008).*

Rule 1.2      General Definitions

- A. Whenever used in these Rules and Regulations, unless expressly otherwise stated, or unless the context or subject matter requires a different meaning, the following terms shall have the respective meanings hereinafter set forth or indicated:
- (1) "Nursing Home Administrator" or "administrator" means any individual who is charged with the general administration of a nursing home, whether or not such an individual has an ownership interest in such home and whether or not the functions and duties are shared with one or more other individuals.
  - (2) "General administration of a nursing home" shall mean the duties of administrative performance and the making of day-to-day decisions involved in the planning, organizing, directing, and/or controlling of a nursing home. In the performance of day-to-day operations, the administrator shall be full-time (i.e., thirty-two hours per week or more) and spend an adequate and reasonable amount of time on the premises and a major portion of that time shall be during the normal work week when the key personnel are on duty (i.e., Monday - Friday).
  - (3) "Nursing home" means a place, either governmental or private, either profit or nonprofit, which provides group living arrangements for four (4) or more persons who are unrelated to the operator and who are being provided food, shelter and personal care, and which employs at least one (1) registered nurse or licensed practical nurse. The term "nursing home"

does not include hospitals, clinics, and other institutions devoted primarily to providing medical service.

- (4) "Act" means the Nursing Home Administration Act of 1970, being sections 73-17-1 through 73-17-15 of the Mississippi Code of 1972, Annotated, and amendments thereto.
- (5) "Board" means the Mississippi State Board of Nursing Home Administrators.
- (6) "Person" means an individual and does not include the terms firm, corporation, association, partnership, institution, public body, joint stock association or any other group of individuals.
- (7) "Administrator-in-Training" is an individual, registered with the Board, who is pursuing the prescribed program required by the Board under these Rules and Regulations. (See Part 2703, Chapter 1, Rule 1.3)
- (8) "Preceptor" means a full-time practicing Nursing Home Administrator certified to serve as such, in the prescribed program required by the Board under these Rules and Regulations. (See Part 2703, Chapter 1, Rule 1.3)
- (9) "NAB" means the National Association of Boards of Examiners of Long Term Care Administrators.
- (10) "NAB Examination" is one of the required examinations for license as a nursing home administrator. The Mississippi State Board of Nursing Home Administrators contracts with NAB to develop the exam, as well as to set forth procedures for administration and the scoring of the exam. The "NAB Examination" is administered by the computer based method.
- (11) "Endorsement" means reciprocity as described in Mississippi Code Ann. 73-17-11.

Source: *Miss. Code Ann. Sections 73-17-5 and 73-17-7(2)*(Rev. 2008).

Rule 1.3      Board of Nursing Home Administrators

- A. Composition  
The Board shall consist of seven (7) members in addition to the state health officer or his designee, as outlined in Section 73-17-7 of the Act.
- B. Meetings
  - (1) The Board shall meet regularly at least once every calendar quarter.

- (2) The Chairman, or Vice-Chairman acting for and in the absence of the Chairman, may call special meetings thereof when, in his judgment, circumstances or functions of the Board require it.
- (3) Upon written petition of a simple majority of the members of the Board, the Chairman, or Vice-Chairman acting for and in the absence of the Chairman, shall call a special meeting for the purposes cited in said petition.

C. General Powers

- (1) The Board shall exercise such powers as provided by the laws of this state pertaining to the licensing and registration of nursing home administrators.
- (2) From time to time the Board may make and publish such rules and regulations not inconsistent with the Act and other applicable laws as it may deem necessary and proper for the execution and enforcement of the laws and rules and regulations governing the licensing and registration of nursing home administrators.

D. Officers and Duties

- (1) The Board shall elect annually from its members a Chairman and a Vice-Chairman. The terms of said officers shall commence on July 1, and end on June 30 of the following year. Neither the Chairman nor the Vice-Chairman shall immediately succeed himself in that office for more than two full one-year terms.
- (2) The Chairman shall preside at all meetings of the Board, and shall sign all official documents of the Board. In the absence of the Chairman, the Vice-Chairman shall preside at the meetings, and perform all duties usually performed by the Chairman.
- (3) Should the office of Vice-Chairman be vacated, the majority of the Board shall elect a Vice-Chairman.
- (4) The Board shall employ an Executive Director who shall not be a member of the Board.
- (5) In addition to the duties imposed by law, the Executive Director shall:
  - a. attend all meetings of the Board;
  - b. keep a full, complete record of the minutes of said meetings;

- c. notify the members of the Board of the time and place fixed for meetings of the Board;
  - d. prepare and circulate to the members of the Board a written agenda approximately five (5) days prior to each meeting;
  - e. maintain the records pertaining to licensees and registrants and the Rules and Regulations;
  - f. Conduct all routine correspondence of the Board;
  - g. issue all notices of meetings and hearings;
  - h. have custody of all books, records, and property of the Board;
  - i. annually, within sixty (60) days of the end of the fiscal year, submit books to the State Audit Department for an audit;
  - j. distribute any audit results, on receipt, to all members of the Board for review;
  - k. receive all monies payable to the Board, disburse funds, and keep such financial records as are approved by the Board;
  - l. be bonded as set forth in Section 73-17-7 (4) of the Act; and
  - m. perform all duties pertaining to the office of Executive Director.
- (6) The Chairman shall be authorized to appoint any committee he deems necessary.

E. Oral Proceedings on Proposed Rules

- (1) Scope. This rule applies to all oral proceedings held for the purpose of providing the public with an opportunity to make oral presentations on proposed new rules and amendments to rules before the Department pursuant to S25-43-3.104.
- (2) When Oral Proceedings will be Scheduled on Proposed Rules. The Department will conduct an oral proceeding on a proposed rule or amendment if requested by a political subdivision, an agency or ten (10) persons in writing within twenty (20) days after the filing of the notice of the proposed rule.
- (3) Request Format. Each request must be printed or typewritten, or must be in legible handwriting. Each request must be submitted on standard

business letter-size (8-1/2 inches by 11 inches). Requests may be in the form of a letter addressed to the Department and signed by the requestor(s).

- (4) Notification of Oral Proceeding. The date, time and place of all oral proceedings shall be filed with the Secretary of State's office and mailed to each requestor. The oral proceedings will be scheduled no earlier than twenty (20) days from the filing of this information with the Secretary of State.
- (5) Presiding Officer. The Commissioner or his designee, who is familiar with the substance of the proposed rule, shall preside at the oral proceeding on a proposed rule.
- (6) Public Presentation and Participation.
  - (a) At an oral proceeding on a proposed rule, persons may make oral statements and make documentary and physical submissions, which may include data, views, comments or arguments concerning the proposed rule.
  - (b) Persons wishing to make oral presentations at such a proceeding shall notify the Department at least one business day prior to the proceeding and indicate the general subject of their presentations. The presiding officer in his or her discretion may allow individuals to participate that have not previously contacted the Department.
  - (c) At the proceeding, those who participate shall indicate their names and addresses, identify any persons or organizations they may represent, and provide any other information relating to their participation deemed appropriate by the presiding officer.
  - (d) The presiding officer may place time limitations on individual oral presentations when necessary to assure the orderly and expeditious conduct of the oral proceeding. To encourage joint oral presentations and to avoid repetition, additional time may be provided for persons whose presentations represent the views of other individuals as well as their own views.
  - (e) Persons making oral presentations are encouraged to avoid restating matters that have already been submitted in writing.
  - (f) There shall be no interruption of a participant who has been given the floor by the presiding officer, except that the presiding officer may in his or her discretion interrupt or end the participant's time where the orderly conduct of the proceeding so requires.



(7) Conduct of Oral Proceeding.

- (a) Presiding officer. The presiding officer shall have authority to conduct the proceeding in his or her discretion for the orderly conduct of the proceeding. The presiding officer shall (i) call proceeding to order; (ii) give a brief synopsis of the proposed rule, a statement of the statutory authority for the proposed rule, and the reasons provided by the Department for the proposed rule; (iii) call on those individuals who have contacted the Department about speaking on or against the proposed rule; (iv) allow for rebuttal statements following all participants' comments; (v) adjourn the proceeding.
- (b) Questions. The presiding officer, where time permits and to facilitate the exchange of information, may open the floor to questions or general discussion. The presiding officer may question participants and permit the questioning of participants by other participants about any matter relating to that rule-making proceeding, including any prior written submissions made by those participants in that proceeding; but no participant shall be required to answer any question.
- (c) Physical and Documentary Submissions. Submissions presented by participants in an oral proceeding shall be submitted to the presiding officer. Such submissions become the property of the Department and are subject to the Department's public records request procedure.
- (d) Recording. The Department may record oral proceedings by stenographic or electronic means.

F. Declaratory Opinions

- (1) Scope. These rules set forth the Mississippi State Board of Nursing Home Administrators' (MSBNHA), hereinafter MSBNHA, rules governing the form and content of requests for declaratory opinions, and the MSBNHA's procedures regarding the requests, as required by Mississippi Code S25-43-2.103. These rules are intended to supplement and be read in conjunction with the provisions of the Mississippi Administrative Procedures Law, which may contain additional information regarding the issuance of declaratory opinions. In the event of any conflict between these rules and the Mississippi Administrative Procedures Law, the latter shall govern.

- (2) **Persons Who May Request Declaratory Opinions.** Any person with a substantial interest in the subject matter may request a declaratory opinion from the MSBNHA by following the specified procedures. "Substantial interest in the subject matter" means: an individual, business, group or other entity that is directly affected by the MSBNHA's administration of the laws within its primary jurisdiction. "Primary jurisdiction of the agency" means the agency has a constitutional or statutory grant of authority in the subject matter at issue.
- (3) **Subjects Which May Be Addressed in Declaratory Opinions.** The MSBNHA will issue declaratory opinions regarding the applicability to specified facts of:
  - (1) a statute administered or enforced by the MSBNHA or
  - (2) a rule promulgated by the MSBNHA. The MSBNHA will not issue a declaratory opinion regarding a statute or rule which is outside the primary jurisdiction of the agency.
- (4) **Circumstances In Which Declaratory Opinions Will Not be Issued.** The MSBNHA may, for good cause, refuse to issue a declaratory opinion. The circumstances in which declaratory opinions will not be issued include, but are not necessarily limited to:
  - (a) lack of clarity concerning the question presented;
  - (b) there is pending or anticipated litigation, administrative action, or other adjudication which may either answer the question presented by the request or otherwise make an answer unnecessary;
  - (c) the statute or rule on which a declaratory opinion is sought is clear and not in need of interpretation to answer the question presented by the request;
  - (d) the facts presented in the request are not sufficient to answer the question presented;
  - (e) the request fails to contain information required by these rules or the requestor failed to follow the procedure set forth in these rules;
  - (f) the request seeks to resolve issues which have become moot, or are abstract or hypothetical such that the requestor is not substantially affected by the statute or rule on which a declaratory opinion is sought;

- (g) no controversy exists concerning the issue as the requestor is not faced with existing facts or those certain to arise which raise a question concerning the application of the statute or rule;
  - (h) the question presented by the request concerns the legal validity of a statute or rule;
  - (i) the request is not based upon facts calculated to aid in the planning of future conduct but is, instead, based on past conduct in an effort to establish the effect of that conduct;
  - (j) no clear answer is determinable;
  - (k) the question presented by the request involves the application of a criminal statute or a sets of facts which may constitute a crime;
  - (l) the answer to the question presented would require the disclosure of information which is privileged or otherwise protected by law from disclosure;
  - (m) The question is currently the subject of an Attorney General's opinion request or has been answered by an Attorney General's opinion;
  - (n) A similar request is pending before this agency or any other agency or a proceeding is pending on the same subject matter before any agency, administrative or judicial tribunal, or where such an opinion would constitute the unauthorized practice or law.
  - (o) Where issuance of a declaratory opinion may adversely affect the interests of the State, the MSBNHA or any of their officers or employees in any litigation which is pending or may reasonably be expected to arise;
  - (p) The question involves eligibility for a license, permit, certificate or other approval by the MSBNHA or some other agency, and there is a statutory or regulatory application process by which eligibility for said license, permit, certificate or other approval would be determined.
- (5) Written Request Required. Each request must be printed or typewritten, or must be in legible handwriting. Each request must be submitted on standard business letter-sized paper (8-1/2 inches by 11 inches). Requests may be in the form of a letter addressed to the MSBNHA.

- (6) Where to Send Requests. All requests must be mailed, delivered or transmitted via facsimile to the MSBNHA. The request shall clearly state that it is a request for a declaratory opinion. No oral, telephone requests or email requests will be accepted for official opinions.
- (7) Name, Address and Signature of Requestor. Each request must include the full name, telephone number, and mailing address of the requestor. All requests shall be signed by the person filing the request, who shall attest that the request complies with the requirements set forth in these rules, including but not limited to a full, complete, and accurate statement of relevant facts and that there are no related proceedings pending before any other administrative or judicial tribunal.
- (8) Question Presented. Each request shall contain the following:
  - (a) a clear and concise statement of all facts on which the opinion is requested;
  - (b) a citation to the statute or rule at issue;
  - (c) the question(s) sought to be answered in the opinion, stated clearly;
  - (d) a suggested proposed opinion from the requestor, stating the answers desired by petitioner and a summary of the reasons in support of those answers;
  - (e) the identity of all other known persons involved in or impacted by the described factual situation, including their relationship to the facts, name, mailing address and telephone number; and
  - (f) a statement to show that the person seeking the opinion has a substantial interest in the subject matter.
- (9) Time for MSBNHA's Response. Within forty-five (45) days after the receipt of a request for a declaratory opinion which complies with the requirements of these rules, the MSBNHA shall, in writing:
  - (a) issue a declaratory opinion regarding the specified statute or rule as applied to the specified circumstances;
  - (b) decline to issue a declaratory opinion, stating the reasons for its action; or
  - (c) agree to issue a declaratory opinion by a specified time but not later than ninety (90) days after receipt of the written request; The forty-five (45) day period shall begin running on the first State of

Mississippi business day on or after the request is received by the MSBNHA, whichever is sooner.

- (10) Opinion Not Final for Sixty Days. A declaratory opinion shall not become final until the expiration of sixty (60) days after the issuance of the opinion. Prior to the expiration of sixty (60) days, the MSBNHA may, in its discretion, withdraw or amend the declaratory opinion for any reason which is not arbitrary or capricious. Reasons for withdrawing or amending an opinion include, but are not limited to, a determination that the request failed to meet the requirements of these rules or that the opinion issued contains a legal or factual error.
- (11) Notice by MSBNHA to third parties. The MSBNHA may give notice to any person, agency or entity that a declaratory opinion has been requested and may receive and consider data, facts, arguments and opinions from other persons, agencies or other entities other than the requestor.
- (12) Public Availability of Requests and Declaratory Opinions. Declaratory opinions and requests for declaratory opinions shall be made available for public inspection and copying in accordance with the Public Records Act and the MSBNHA's public records request procedure. All declaratory opinions and requests shall be indexed by name and subject. Declaratory opinions and requests which contain information which is confidential or exempt from disclosure under the Mississippi Public Records Act or other laws shall be exempt from this requirement and shall remain confidential.
- (13) Effect of a Declaratory Opinion. The MSBNHA will not pursue any civil, criminal or administrative action against a person who is issued a declaratory opinion from the MSBNHA and who, in good faith, follows the direction of the opinion and acts in accordance therewith unless a court of competent jurisdiction holds that the opinion is manifestly wrong. Any declaratory opinion rendered by the MSBNHA shall be binding only on the MSBNHA and the person to whom the opinion is issued. No declaratory opinion will be used as precedent for any other transaction or occurrence beyond that set forth by the requesting person.

G. Public Records

All public requests to inspect, copy or mechanically reproduce or obtain a reproduction of any public record of the Mississippi State Board of Nursing Home Administrators (Board) must be submitted in writing to: Mississippi State Board of Nursing Home Administrators, 1755 Lelia Drive, Suite 305, Jackson, Mississippi 39216. This rule is not intended to apply to any record or other document, which is exempted or privileged under the provisions of the Mississippi Public Records Act.

The written request must be typed or clearly handprinted on a letter size piece of paper and must specify in detail the public record(s) sought. The request must include a description of the type of record, dates, title of a publication, and other information which may aid in locating the record. No verbal or telephone requests for records will be accepted.

Under the Public Records Act, documents that are exempt from public access to records include, but are not limited to, personnel records, appraisal records, attorney communications and work products of attorneys, investigative reports, licensure applications and examination records, and individual tax records.

The Board, upon receipt of any public records request, shall review same and determine whether the records sought are exempt or privileged by law and shall either produce the records or allow access to records or deny access to or production of the records sought within fourteen (14) working days of the receipt of the request by the Board.

Pursuant to the Public Records Act, the Board will give notice to any third party when a request for information is made for documents furnished to the Board by the third party. Third party information will not be released without the prior written consent of the third party authorizing the release of the information and/or until the third party has been provided with notice of the public records request and an opportunity to seek a court order protecting such records from public review. No third party information will be released by the Board if the third party obtains a court order prohibiting the disclosure of such information.

All inspection, copying or mechanical reproduction shall be done in the offices of the Board or such other reasonable place within the State of Mississippi as may be designated by the Board.

When possible, nonexempt material will be separated from exempt material and only the exempt material will be withheld.

If the Board determines that the records requested are exempt or privileged under the law, the request shall be denied and the person making the request will be provided a statement of the specific reasons for the denial. Such denials shall be kept on file for inspection by any person for three (3) years from the date such denials are made.

Public records of the Board will be made available at the Board office during regular hours (8:00 a.m. through 5:00 p.m., Monday through Friday) by appointment.

The requester must pay the Board in advance for the cost of searching, obtaining from storage, reviewing, shipping and/or duplicating the requested

records. Such payment must be sufficient to cover the actual costs to the Board of complying with the public records request. There shall be a charge of \$1.00 per page for each copy. Copies printed on both sides (front and back) shall be considered as two pages for copy charge purposes. Mailing cost shall be calculated at the applicable rate for each such mailing. If the request involves notice being given to a third party, the cost of mailing such notice to the third party shall be charged to the requester. Cost of obtaining records from any state storage facilities and the search for the records shall be charged to the requester.

Payment by the public records requester must be made by money order or certified check.

The Board has also established a schedule of standard fees for frequently requested documents and information, directory or labels of licensed Nursing Home administrators, and electronically accessible data. The schedule of standard documents and fees is listed below.

#### H. Fee Schedule

##### Application Fees:

Administrator-in-Training Application	\$150.00
Endorsement/Reciprocity Application	\$150.00
Reinstatement Application	\$150.00
Temporary Permit Application	\$200.00

##### License Fees:

Renewal Fee	\$450.00
Renewal Late Fee	\$150.00
Temporary Permit Fee	\$50.00
Reinstatement Fee	\$450.00

##### Continuing Education Fees:

##### Sponsor Fees:

1-6 hours	\$150.00
Each additional hour over 6 per program	\$30.00
Each additional presentation of same program	\$80.00
Individual Request Fee	\$50.00

Fee for Release of Licensure Information to Another State Board (Endorsement Questionnaire)	\$50.00
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Duplicate Large License	\$50.00
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State Test Fee	\$75.00
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State Study Packet (Designed for preparation for the State Test)	\$50.00
Returned Check Fee	\$50.00
Directory of Licensed Administrators (paper Directory, diskette, or labels)	\$100.00
Rules and Regulations	Actual cost of printing/ duplicating per page

Source: *Miss. Code Ann. Sections 73-17-7, 73-17-11(3) and (4) and 73-17-17-15(1)*(Rev. 2008); *Miss. Code Ann. Sections 25-41-5(2), 25-41-11 and 25-41-13(1)*(Rev. 2010); *Miss. Code Ann. Sections 25-43-2.103, 25-43-2.104 and 25-43-3.104*(Rev. 2010); and *Miss. Code Ann. Sections 25-61-1 through 25-61-12*(Rev. 2010).

Rule 1.4      Applicability, Legal Effect, Separability

- A. Every rule, regulation, order, and direction adopted by the Board shall state the date on which it takes effect and a copy thereof signed by the Chairman of the Board, and shall be filed as a public record in the office of the Board and in the office of the Secretary of State.
- B. The Rules and Regulations of the Board are intended to be consistent with the applicable Federal and State laws and shall be construed, whenever necessary to achieve such consistency.
- C. In the event that any provision of these Rules and Regulations is declared unconstitutional or invalid, the applicability of such provision to other persons and circumstances and the constitutionality or validity of every other provision of these Rules and Regulations shall not be affected thereby.
- D. These Rules and Regulations shall not affect pending actions or proceedings, civil or criminal, but the same may be prosecuted or defended in the same manner and with the same effect as though these Rules and Regulations had not been promulgated.
- E. The Board shall furnish one (1) copy of these Rules and Regulations and any amendment thereof, without charge to each licensed nursing home administrator. Additional copies shall be made available at a nominal cost.
- F. Prior to the adoption, amendment, or repeal of any rule, the Board shall give at least ten (10) days' notice of its intended action to all registered nursing home administrators. The notice shall be mailed to the last known address of each registered nursing home administrator. The notice shall be effective when mailed by the Board, whether it is actually received by the person entitled to notice or



not. The notice shall include a statement of either the terms or substance of the intended action or a description of the subjects and issues involved and the time when, the place where, and the manner in which registered nursing home administrators may present their views thereon.

- G. If the Board finds that an imminent peril to the public health, safety or welfare requires adoption of a rule upon fewer than ten (10) days' notice and states in writing its reasons for that finding, it may proceed without prior notice or hearing upon any abbreviated notice and hearing that it finds practicable, to adopt an emergency rule. The rule may be effective for a period of not longer than 120 days, but the adoption of an identical rule as a permanent part of these Rules and Regulations is not precluded.
- H. No rule adopted on or after August 1997, is valid unless adopted in substantial compliance with this Section, provided however, that the inadvertent failure to mail notice to any person as provided in this Section shall not invalidate any rule adopted hereunder.
- I. An interested person may petition an agency requesting the promulgation, amendment, or repeal of a rule. The Board shall prescribe the form for petitions and the procedure for their submission of a petition. The Board shall either deny the petition in writing, stating the reason for the denial, or shall initiate rulemaking proceedings.
- J. In addition to the above, the rules or parliamentary procedure as laid down in "Robert's Rules of Order, Newly Revised" shall govern all meetings of the Board.
- K. These revised Rules and Regulations shall take effect the First Day of August, 2002, and shall replace those Rules and Regulations previously effective July 1, 1975, and amendments thereto by Board action November 21, 1975, April 6, 1976, July 1, 1976, July 1, 1977, May 10, 1978, May 16, 1979, July 1, 1979, November 20, 1980, May 14, 1981, February 10, 1983, July 1, 1983, April 12, 1984, May 24, 1984, March 14, 1986, April 14, 1987, July 1, 1988, June 20, 1989, December 12, 1990, September 10, 1991, October 1, 1992, August 15, 1993, May 25, 1995, May 15, 1997, July 15, 1997, August 25, 1997, January 1, 2000, February 1, 2000, July 1, 2000, November 1, 2000, July 1, 2001, December 1, 2001, March 1, 2002, Sept. 1, 2002, February 6, 2003, September 1, 2003, March 1, 2004, April 1, 2006, January 1, 2007, October 1, 2007, April 1, 2008, June 1, 2008, December 1, 2008, March 1, 2009, July 24, 2009, September 1, 2009, March 1, 2010, June 1, 2010, June 30, 2011

Source: *Miss. Code Ann. Section 73-17-7(2)*(Rev. 2008); and *Miss. Code Ann. Section 25-43-3.108*(Rev. 2010).

## **Title 30: Professions and Occupations**

### **Part 2703: Licensure, Regulations, and Administrative Hearings**

#### **Part 2703 Chapter 1: Licensure**

##### Rule 1.1      Pre-Licensure Requirements: Conditions Precedent

In order to be eligible to be licensed as a nursing home administrator, an individual must submit evidence satisfactory to the Board that he/she:

- (1) is at least twenty-one (21) years of age;
- (2) is of good moral character;
- (3) is in good health;
- (4) is a high school graduate, or the equivalent;
- (5) for initial licensure on or after July 1, 2002, has an associate degree from an accredited institution, or at least sixty-four (64) semester hours of college work from an accredited institution, or at least one (1) continuous year of full-time supervisory or administrative responsibilities in a licensed sub-acute or long-term health care facility in Mississippi within the twelve (12) months prior to making application;
- (6) pursuant to the Board's standards developed consistent with Mississippi Code Ann. 73-17-9(a), has completed a nursing home administrator-in-training program as set forth in Part 2703, Chapter 1, Rule 1.3, or has completed an equivalent A.I.T. program in Long Term Care Administration from an academic institution during which time the institution held NAB Program Approval through the Academic Approval process, to the satisfaction of the Board;
- (7) pursuant to the Board's standards developed consistent with Mississippi Code Ann. 73-17-9(a), has completed a Domains of Practice course to the satisfaction of the Board, pursuant to Part 2703, Chapter 1, Rule 1.3;
- (8) pursuant to the Board's standards developed consistent with Mississippi Code Ann. 73-17-9(a), has completed a two-day training course with the Office of Licensure and Certification, Department of Health, to the satisfaction of the Board, pursuant to Part 2703, Chapter 1, Rule 1.3, and
- (9) has successfully passed examinations administered by the Board to test his/her proficiency and basic knowledge in the area of nursing home administration.

Source: *Miss. Code Ann. Sections 73-17-7(2), 73-17-9(a), (b), and (c) and 73-17-1(1)*(Rev. 2008).

Rule 1.2      Application for examination

- A. An applicant for examination for license as a nursing home administrator shall apply in writing, on forms provided by the Board, shall pay an examination fee not to exceed four hundred dollars (\$400.00), payable prior to sitting for an examination, and shall furnish evidence satisfactory to the Board that he/she has met all pre-examination requirements as provided for in Part 2703, Chapter 1, Rule 1.1, Items (1) - (6) of these Rules and Regulations, which shall consist of at least the following:
- (1) satisfactory proof of age must accompany the application;
  - (2) letters from three (3) references, who shall certify to the moral character of the applicant, and shall be individuals who have engaged in either business or professional work with the applicant, but shall not be related by blood or marriage;
  - (3) a statement must accompany the application from the applicant's physician as to the health of the applicant, specifically, his/her physical ability to perform the duties of a nursing home administrator;
  - (4) the applicant shall attach to his application a finished unmounted recent photograph of himself for identification. This photograph must not be less than 2" x 3" in size and must be signed by the applicant on the back;
  - (5) a transcript, bearing the official seal of the educational institution, must be submitted to the Board office directly from the institution, for the purpose of documenting successful completion of college credits by the applicant;
  - (6) the applicant shall attach to the application payment for the current non-refundable application fee in the amount set forth on the application to cover the costs associated with processing the application;
  - (7) the applicant shall also attach to the application a completed Certificate of Employment form and A.I.T./ Preceptor Agreement form, or proof of completion of an equivalent A.I.T. program in Long Term Care Administration from an academic institution as stated in Part 2703, Chapter 1, Rule 1.1(6).

The basic requirements for suitability set forth herein above are to be considered minimal and may not be waived.

- B. The Board may designate a time and place at which an applicant may be required to present himself for inquiry as to his suitability as provided for herein.
- C. Abandonment of application
  - (1) A candidate shall be deemed to have abandoned the application if he does not begin the A.I.T. program within ninety (90) days from the date of Board approval to enter the program.
  - (2) An application submitted subsequent to the abandonment of a former application shall be treated as a new application and the Rules in force at the time of such new application shall govern.

The applicant shall be required to meet all the requirements of this and all other applicable laws and rules as prerequisite to sitting for the examinations as identified in Part 2703, Chapter 1, Rule 1.5.

Source: *Miss. Code Ann. Sections 73-17-7(2), 73-17-9(b) and (d) and 73-17-77(1) and (3)*(Rev. 2008).

Rule 1.3      Administrator-in-Training and Preceptor

- A. Administrator-in-Training (A.I.T.)
  - (1) After Board action is taken to approve the applicant's qualifications, as set forth in Part 2703, Chapter 1, Rule 1.1, the applicant must be employed in the facility while serving as a full-time practicing Administrator-in-Training in a licensed nursing home in Mississippi for a minimum period of six (6) consecutive months as evidenced by a properly executed and notarized *Certificate of Employment*. The *Certificate of Employment* must be submitted with the Application packet.
  - (2) The A.I.T. program is a forty (40) hour per week program (Monday – Friday between the hours of 7:00 a.m. - 7:00 p.m. or otherwise approved by the Board) that must include a minimum of eight (8) hours per week under the close, personal, and direct supervision of a certified preceptor. If due to no fault of the A.I.T., his/her preceptor becomes unable to complete the six month program as agreed, due to a job change, illness, etc., the A.I.T. shall immediately notify the Board office and will be given four weeks to secure another preceptor and submit the proper A.I.T. Preceptor Agreement Form. The Agreement shall cover the remaining period of time in order to complete the full six month program (1,040 hours).
  - (3) Within ten days of beginning an Administrator-in-Training program, a Program Outline must be forwarded to the Board. Monthly reports documenting learning experiences and activities related to the

Administrator-in-Training program are to be submitted to the Board on established forms no later than the 15th day of the following month. Any required form or report which is received thirty (30) days after the end of the reporting period will result in the internship being terminated.

- (4) An Administrator-in-Training may not sit for the Nursing Home Administrators National Examination unless he/she has completed the six (6) months training and completed a Board approved training course covering the Domains of Practice for Nursing Home Administrators.
- (5) Following completion of the six (6) months Administrator-in-Training program, and prior to receiving a regular license, the trainee shall successfully pass such tests as required by the Board to determine if he/she has received training and experience consistent with guidelines established by the Board.
- (6) Prior to receiving a license, the Administrator-in-Training must complete a two-day training course with the Office of Licensure & Certification.
- (7) Failure to successfully complete licensing requirements within eighteen months after beginning the A.I.T. program will result in the loss of all accomplishments and fees.

B. Preceptor

- (1) The Preceptor must hold a Nursing Home Administrator license in Mississippi, be duly certified by the Board, and have three (3) years experience in Mississippi as an Administrator or Assistant Administrator in a licensed nursing home facility immediately prior to serving as a Preceptor. For licensed Administrators who have worked under a Temporary Permit, the three years will be calculated beginning the effective date of the temporary permit.

Preceptor Certification will also be considered for nursing home administrators who have direct management responsibility over one or more nursing homes for the period of time set forth above.

No preceptor certification shall be issued or granted to any person who has had a disciplinary action taken against his or her professional license within the three (3) years prior to date on which his or her eligibility as a preceptor is considered by the Board; who has resigned or surrendered his or her professional license in lieu of disciplinary action or while under investigation or while disciplinary action is pending; who has a pending or unresolved complaint or investigation against his or her license; who has disciplinary action, sanctions, order or agreement pending or in effect

against his or her professional license; and/or whose license is in any way restricted or otherwise subject to disciplinary action.

- (2) The A.I.T. experience must be guided by a training plan developed by the Nursing Home Administrator Preceptor. The Preceptor shall give close, personal, and direct supervision to the trainee for a minimum of eight (8) hours per week.
- (3) The Preceptor must complete a written evaluation of the trainee after a three (3) month and a six (6) month training period.
- (4) The evaluation form must include the following: length of training period, description of training activities, evaluation of trainee's performance, trainee's evaluation of training received, and signatures of the Preceptor and trainee. The evaluation forms must be filed in the Mississippi Board's office within fifteen days of the completed training period. Any required form or report which is received thirty (30) days after the end of the reporting period will result in the internship being terminated.
- (5) The Preceptor must have no more than two (2) Administrators-in-Training concurrently for any Preceptor experience.
- (6) The Preceptor must work within 100 miles of the A.I.T.'s training facility.
- (7) The Preceptor in order to be eligible for recertification must meet the same qualifications as set forth in Part 2703, Chapter 1, Rule 1.3.B.(1). If his/her position or responsibility has changed since last certification, consideration will be given for recertification only if the Preceptor has direct management responsibility over one or more nursing homes and meets all other conditions as set forth in these Rules and Regulations.

Source: *Miss. Code Ann. Sections 73-17-7(2) and 73-17-9(a), (b), and (g)*(Rev. 2008).

Rule 1.4      Disqualifications; Re-Application

- A. An applicant for licensure who has been disqualified shall be given written notification by the Board of his/her disqualification and the reasons therefor and of his/her right to a hearing.
- B. An applicant for licensure who has been disqualified may petition the Board in writing within thirty (30) days of notification of disqualification for a hearing and a review of his/her application.
- C. Any person aggrieved by a decision of the Board in granting or refusing to grant a license, or aggrieved by an order, rule, or regulation of the Board, shall have the right to appeal to the chancery court of the county of the residence of the

aggrieved party in the manner provided by law for appeals from administrative decisions.

- D. When an applicant for licensure has been disqualified, he/she may submit a new application for licensure; however, he/she shall be required to meet the requirements for licensing as shall be in force at the time of such re-application.

Source: *Miss. Code Ann. Sections 73-17-7(2), 73-17-9(c) and 73-17-15(1)*(Rev. 2008).

#### Rule 1.5      Examinations

In order to be eligible to sit for the examinations for licensure as a nursing home administrator, the applicant must meet all the requirements in Part 2703, Chapter 1, Rule 1.1, 1.2, and 1.3 hereinabove, and provide to the Board evidence of such completion, including but not limited to, Application for License as required in Part 2703, Chapter 1, Rule 1.2; evidence of satisfactory completion of an Administrator-in-Training program pursuant to Part 2703, Chapter 1, Rule 1.3; and evidence of completion of a Domains of Practice course, pursuant to Part 2703, Chapter 1, Rule 1.3.

- A. Each applicant for license must successfully complete the NAB Examination and the State Examination.
- B. In conjunction with NAB, the Board shall determine the subjects for examination of applicants for licensing as a nursing home administrator, and the scope, content, form, and character of such examinations, and shall provide the examination to applicants who have met the qualifications hereinabove.

The NAB Examination, which is administered by a computer based method at a Prometric Testing Center, must be scheduled by the applicant for licensure with the Prometric Testing Center for a date, time, and place agreeable to the applicant and the Center.

The State Examination will be administered at such times and places as designated by the Board. The contents and substance of the examination shall be the same for all applicants for licensure.

- C. Prior to sitting for the examinations, the applicant shall pay examination fees not to exceed a total of \$400.00.
- D. For those applicants who have satisfied their A.I.T. requirement by academic credentials as identified in Part 2703, Chapter 1, Rule 1.1 and 1.2, they will be eligible for the NAB and State examinations, assuming all other requirements herein have been met.
- E. Reexamination. An applicant may retake the NAB Examination no sooner than ninety (90) days after an unsuccessful attempt to pass the exam. The

State Examination may be administered no sooner than thirty (30) days after an unsuccessful attempt to pass the exam. If an applicant shall fail either exam three (3) times, he/she shall wait one (1) calendar year before submitting a new application.

Following the close of every examination, a permanent record stating in detail the results of the examination for each candidate shall be kept by the Board.

Source: *Miss. Code Ann. Sections 73-17-7(2), 73-17-9(a) and (b) and 73-17-11(1)*(Rev. 2008).

Rule 1.6      Subjects for Examinations and Continuing Education

- A. Every applicant for license as a nursing home administrator shall meet the requirements for licensure as set forth in the Act and Part 2703, Chapter 1, Rule 1.1 of these Rules and Regulations, which include successfully passing written examinations. Such examinations shall be designed to test the proficiency and knowledge of the applicant for license in the area of nursing home administration. The following areas of study shall be considered by the applicant as guidelines in preparing for such examinations:

- (1) Resident Care and Quality of Life
- (2) Human Resources
- (3) Finance
- (4) Physical Environment and Atmosphere
- (5) Leadership and Management

Source: *Miss. Code Ann. Sections 73-17-7(2), 73-17-9(a), (d), and (g)*(Rev. 2008).

Rule 1.7      Grading Examinations

- A. Every candidate for nursing home administrators license shall be required to pass an examination to be administered by the Board and which was prepared by the National Association of Boards of Examiners for Nursing Home Administrators.
- B. Passing Point for the NAB test will be 113 derived from the Angoff equated scale score factored by the professional testing service and the National Association of Board of Examiners.
- C. In addition to the foregoing examination, the Board may adopt and approve an examination to be administered by the Board, and upon such approval, said examination shall be considered a part of the examination which all applicants for



licensure as nursing home administrators must pass. This examination shall be known as the State Examination.

Passing point for the State Examination is at least 75% of the questions answered correctly.

Source: *Miss. Code Ann. Sections 73-17-7(2), 73-17-9(b) and (c) and 73-17-11(1)(f)*(Rev. 2008).

Rule 1.8      Licenses

- A. An applicant for license as a nursing home administrator who has successfully complied with the requirements of these Rules and Regulations shall be issued a license on a form provided for that purpose by the Board.
- B. Any license issued by the Board shall be under signature of the Chairman and shall bear the seal of the Board.

Source: *Miss. Code Ann. Sections 73-17-7(2), 73-17-9(c) and 73-17-11(1), (3) and (4)*(Rev. 2008).

Rule 1.9      Reciprocity or Endorsement

The Board, subject to the law pertaining to the licensing of nursing home administrators may at its discretion, endorse a nursing home administrator license issued by the proper authorities of any other state, upon payment of the biennial license fee and the application fee, and upon submission of evidence satisfactory to the Board that:

- A. The A.I.T. period may be waived if applicant can provide evidence of completion of at least a 1,040 hour A.I.T. program in the State of original license, or Applicant shall have had two (2) years experience out of the past three (3) years as a sub-acute or long-term health care facility administrator;
- B. Applicant must be entering employment in a Mississippi sub-acute or long-term health care facility;
- C. Applicant must have a NAB score of 113 as outlined in Part 2703, Chapter 1, Rule 1.7;
- D. Applicant for endorsement is examined and successfully passes the State Test within sixty (60) days after Board approval;
- E. Applicant has not had a license revoked or suspended in any state from which he has received a nursing home administrator license or reciprocal endorsement; and
- F. Such licensing jurisdiction extends reciprocity to licensees of the State of

Mississippi under reasonable terms and conditions.

- G. A temporary permit, to practice as a nursing home administrator in Mississippi, may be issued to an applicant who has applied for a Mississippi nursing home administrator license under the requirements stated above (Part 2703, Chapter 1, Rule 1.9) of the Board's Rules and Regulations. A temporary permit may be considered when the applicant:
1. Submits the original documentation for all of the above requirements to apply with the Board for a Mississippi nursing home administrator license through Reciprocity/Endorsement, as well as payment of the current Application fee;
  2. Holds a current and unencumbered nursing home administrator license, which is in good standing, in at least one other state;
  3. Submits a formal request, along with the Application, documenting the circumstances that created the need for a temporary permit, as well as the temporary permit fee.
  4. Submits satisfactory proof from each state board that has issued him/ her a nursing home administrator license at any time in the past:
    - a. that there has been no formal discipline taken against the license;
    - b. that the applicant received an acceptable NAB Exam Scale score of 113 or greater;
    - c. that the applicant either successfully completed a 1,040 hour A.I.T. Program, or he/she has been licensed and working as a long-term health care facility administrator for at least two of the three past years, prior to applying.
  5. In no cases shall a temporary permit be issued for a period of longer than three (3) months.
    - a. In no case shall an individual nursing home facility be administered by a nursing home administrator holding a "temporary permit" for more than three (3) months in one (1) calendar year.
- H. Under a lawfully declared state of emergency by either Federal, State or Local government, an administrator who holds a valid license in good standing in another state, is eligible to work as the administrator of record in a MS nursing home facility after:

1. submitting a picture I.D. to the Board office;
2. submitting to the Board office proof that he/she currently holds a nursing home administrator license which is valid and in good standing in another state;
3. completes and submits to the Board office a 1 page Application designed for this purpose;
4. the authority to work under these conditions will be for a maximum period of 60 days.

Source: *Miss. Code Ann. Sections 73-17-7(2), 73-17-9(a) and (c) and 73-17-11(2) and (3)*(Rev. 2008).

## **Part 2703 Chapter 2: Regulations**

### **Rule 2.1      Registration of Licenses**

- A. Every person who holds a valid license as a nursing home administrator issued by the Board shall immediately upon issuance thereof be deemed registered with the Board and shall be issued a certificate of registration which shall expire biennially June 30. The registration fee for the initial registration with the Board shall be the pro rata portion of the biennial registration fee which is set forth in the application for license as a nursing home administrator which represents the portion of the biennial period in which the initial registration is effective.
- B. If a nursing home administrator files an application with the Board for a new certificate of registration on or before June 30, his/her prior certificate of registration shall remain in effect until the Board has acted on his/her application for a new certificate of registration.
- C. If a nursing home administrator does not file an application with the Board for a new certificate of registration on or before June 30, the Board may revoke his/her license after due notice and an opportunity to be heard at a formal hearing. The opportunity to be heard at a formal hearing shall be deemed to have been waived by the Board for a new certificate of registration on or before June 30, unless such administrator petitions the Board in writing within thirty (30) days of the mailing of the notice by the Board for a formal hearing.
- D. Upon making an application for a new certificate of registration, such licensee shall fulfill the following:
  - (1) pay biennial registration fee which is set forth in the application for a new certificate of registration;

- (2) submit evidence satisfactory to the Board that during the biennial period immediately preceding such application for registration, he/she has completed Continuing Education programs or courses of study as provided for in Part 2703, Chapter 2, Rule 2.2 of these Rules and Regulations; or attach a written explanation to his/her application setting forth his/her reason for not completing the Continuing Education requirements.
- E. Upon receipt of such application for registration, the registration fee, and the information required with respect to continuing education, the Board may issue a certificate of registration to such nursing home administrator which shall be under the signature of the Chairman.
- F. Only an individual who has qualified as a licensed and registered nursing home administrator and who holds a valid registration certificate pursuant to the provisions of these Rules and Regulations for the current biennial registration period shall have the right and privilege of using the title "Nursing Home Administrator" and/or the abbreviation "N.H.A." after his/her name.
- G. The Board shall maintain a file on all applications for licensure and registration of nursing home administrators, which file shall show:
  - (1) The date of application;
  - (2) Name of applicant;
  - (3) Date of birth;
  - (4) Address of applicant;
  - (5) Name and address of current employer or business connection of each applicant;
  - (6) Education and experience data;
  - (7) License number and registration certificate issued to applicant;
  - (8) The date on which the Board reviewed and acted upon the application; and
  - (9) Such other pertinent information as may be deemed necessary.
- H. The Board shall maintain a register of all licenses.
- I. Re-registration

- (1) A nursing home administrator whose Mississippi license expired within the past three (3) years may apply for relicensure provided the applicant obtains continuing education credit as determined by the Board.
- (2) A nursing home administrator whose Mississippi license expired exceeding three (3) years but no more than five (5) years may be considered for relicensure provided he/she:
  - a. complies with all Rules for licensure in effect at time of reapplication, and,
  - b. serves an internship under an approved preceptor for a period of at least twelve (12) weeks, and,
  - c. successfully passes the State Test.
- (3) A nursing home administrator whose Mississippi license expired more than five (5) years prior to making application for relicensure must apply according to Rules in effect at time of reapplication.

Source: *Miss. Code Ann. Sections 73-17-7(2), 73-17-9(g) and 73-17-11(3) and (4)*(Rev. 2008).

Rule 2.2      Continuing Education: Programs and Requirements

- A. Pursuant to Section 73-17-9 (g) of the Act, it shall be the function and duty of the Board to devise and implement an educational program designed to increase the proficiency of nursing home administrators and to assist otherwise qualified individuals to prepare for careers in nursing home administration. The purpose of continuing education review is to provide a standard and uniform method of evaluating the continuing education activities required for maintenance of licensure of nursing home administrators.
  - (1) the program must be registered with the Board on forms provided by the Board;
  - (2) the programs must include areas of study selected from the subjects listed in Part 2703, Chapter 1, Rule 1.6 of these Rules and Regulations related to long-term or health care administrators;
  - (3) the program must be open to all licensed administrators wishing to register and attend;
  - (4) approved sponsors are required to submit to the Board an alphabetical listing of all licensed nursing home administrators in attendance. A photocopy of all sign-in pages must accompany the typed listing;

- (5)
  - a. the program must be submitted to the Board for approval at least thirty (30) days prior to the anticipated registration of licensees in the course of study.
  - b. Individual requests will be reviewed when submitted at least sixty (60) days prior to the program being held. A maximum of ten (10) hours will be accepted from individually approved programs per 2-year licensure period.
  - c. An administrator who holds a nursing home administrator license in Mississippi and one or more additional states simultaneously, and is working in another state, may renew his/her MS license by receiving credit for continuing education hours earned from programs that have been approved by the state board in which he/she is working.
- (6) A three-hour semester course in an approved institution of higher learning within the guidelines for areas of study may be accepted as meeting twenty (20) clock hours of continuing education. A limitation of one three-hour semester course per licensure period will apply, that is approved prior to or during the course of study.
- (7) Programs which have received approval by NCERS (the National Board's Review Service for Continuing Education) will be acceptable for licensure renewal requirements for nursing home administrators licensed in MS, including self study courses and distance learning courses. A maximum of twenty (20) hours will be accepted for each individual program or course approved by NCERS. No administrator will receive credit for more than ten (10) hours earned from self study and distance learning courses per 2-year licensure period.

Any sponsor or sponsors found certifying to an untruth will no longer be considered as providing acceptable programs of study.

- B. Each nursing home administrator shall complete at least forty (40) classroom or clock hours of continuing education or its equivalent under an approved Continuing Education program each two-year period.
- C. For new administrators licensed within a biennial period, this requirement shall be prorated at 1.5 hours per month.

Source: *Miss. Code Ann. Sections 73-17-7(2) and 73-17-9(d) and (g)*(Rev. 2008).

Rule 2.3      Certification of Program of Study for Federal Financial Participation as provided under Section 1908 of the United States Social Security Act

Programs of study will be certified by the Board in a manner consistent with the requirements of the Federal Government in order to qualify for Federal financial participation.

Source: *Miss. Code Ann. Section 73-17-7(2)*(Rev. 2008).

#### Rule 2.4      Display of Licenses and Registration Certificates

Every person licensed as a nursing home administrator actively engaged in the profession shall display such license and certificate of annual registration in a conspicuous place in the office or place of business or employment of such licensee.

Source: *Miss. Code Ann. Section 73-17-7(2)* and *73-17-9(d)*(Rev. 2008).

#### Rule 2.5      Notification of Change

Every licensed nursing home administrator shall immediately within seven (7) days notify in writing, the office of the Mississippi State Board of Nursing Home Administrators of any and all changes in name, address, position, and other information originally submitted on their application.

Source: *Miss. Code Ann. Section 73-17-7(2)* and *73-17-9(d)* (Rev. 2008).

#### Rule 2.6      Duplicate Licenses

Upon receipt of satisfactory evidence that a license or certificate of registration has been lost, mutilated, or destroyed, the Board may issue a duplicate license or certificate upon such conditions as the Board may prescribe, and upon payment of a fee of Fifty Dollars (\$50.00).

Source: *Miss. Code Ann. Section 73-17-7(2)*(Rev. 2008).

#### Rule 2.7      The Management of More than One Nursing Home Prohibited

No administrator shall administer more than one nursing home, except temporarily in the event an administrator dies, becomes incapacitated, or resigns unexpectedly and the owner, manager, or governing body is unable to employ a licensed nursing home administrator immediately. However, a licensed administrator may administer two facilities with separate provider numbers within the same building, which share the same management and staff, without making a request of the Board under the "Administer Two Facilities" criteria.

A nursing home facility with an administrator vacancy shall apply to the Board for an exception to allow a licensed administrator to serve as acting administrator of a second facility until a licensed nursing home administrator can be employed. Such application shall state the acting administrator's name, his place of employment, circumstances creating the need for a temporary arrangement and the period for which it is needed. Said application shall be verified by the acting

administrator and the owner or manager of the nursing home. The two facilities shall be within fifty (50) miles of each other.

If Board approval is granted to administer two facilities, the nursing home administrator is fully responsible, both legally and in practice, for both facilities. The nursing home administrator must spend at least half-time, i.e. sixteen (16) hours per week (Monday - Friday during normal business hours) on-site at each facility.

Governing bodies shall be allowed ten (10) days from time of administrator vacancy to submit a plan to correct deficiency.

All permits shall expire at the end of ninety (90) days. One ninety (90) day extension may be granted at the discretion of the Board. In no case shall temporary arrangements exceed six (6) months. Failure to comply will result in the Office of Licensure and Certification being notified of such.

Source: *Miss. Code Ann. Sections 73-17-7(2) and 73-17-9(d)*(Rev. 2008).

### **Part 2703 Chapter 3: Administrative Hearings**

#### **Rule 3.1      Offenses**

It shall be an offense punishable as a misdemeanor for an individual to:

- A. perform the duties of a nursing home administrator after July 1, 1970, without a valid license issued hereunder;
- B. provide any false information either written or oral, incident to either an application for a license hereunder, or the renewal of a license hereunder, or a hearing held under the provisions of the law;
- C. knowingly employ an unlicensed individual to perform the duties of a nursing home administrator.

Source: *Miss. Code Ann. Sections 73-17-7(2) and 73-17-13*(Rev. 2008).

#### **Rule 3.2      Complaints**

- A. Any such person, public officer, or the Board may prefer charges against any licensee for due cause.
- B. Such charges shall be in writing, signed and notarized, and shall be submitted to the Board. The charges shall be set forth with such particularity and clarity as to inform the licensee of the issue involved and particular information and/or action, if any required to satisfy the charges.



- C. A Board member should be assigned to conduct or coordinate the investigation of the complaint. The Board member involved in the review and responsible for making recommendations to the Board for a decision becomes a nonvoting member in this process as well as any subsequent hearings or disciplinary actions regarding the complaint. Cases will be assigned and referred to by case number whenever possible.
- D. An investigator may be hired and used where needed.

Source: *Miss. Code Ann. Sections 73-17-7(2), 73-17-9(d) and (e) and 73-17-15(1)*(Rev. 2008).

### Rule 3.3      Hearings

#### A. Investigations

- (1) All investigations will be conducted fairly and objectively, observing all rights of due process, confidentiality and an individual right of response and defense.
- (2) The Board is authorized to investigate or cause to be investigated either on the basis of complaints filed with it, or on its own initiative, instances of suspected violations of any of the provisions of the law pertaining to the licensing of nursing home administrators or the Rules and Regulations of the Board pertaining thereto, including, but not limited to:
  - (a) providing false information to the Board incident to either an application for license, an application for a new certificate of registration, a hearing or otherwise;
  - (b) maladministration, which includes by way of illustration, but is not limited to: practicing fraud, deceit, or misrepresentation in the capacity of a nursing home administrator, willful falsification, destruction or theft of property or records relative to the practice of nursing home administration, committing acts of misconduct in the operation of a nursing home, advertising in a fraudulent, misleading, or deceptive manner, failure to exercise true regard for the safety, health and life of patients, unauthorized disclosure of information relating to a patient or his records, and paying, giving, causing to be paid or given, or offering to pay, or giving to any person a commission or other valuable consideration for the solicitation or procurement, either directly or indirectly, of nursing home patronage, or accepting such payment;
  - (c) unethical conduct, which includes by way of illustration, but is not limited to: wrongfully transferring or surrendering possession, either temporarily or permanently, of a license or certificate of registration as a nursing home administrator to any other person;

- (d) incompetence, which includes by way of illustration, but is not limited to: habitual drunkenness, addiction to the use of narcotic drugs, unsound mental health, and being physically unable to perform any and all duties of administrator to ensure the health and safety of all residents;
- (e) conviction of a felony;
- (f) unprofessional conduct, which includes but is not limited to, doing any act which reflects unfavorably upon a licensee under the law or these Rules and Regulations.

(3) Investigative Process

Once the Board member has determined that a complaint is valid and that further investigation is merited:

- (a) The licensee against whom the complaint has been made will be notified in writing, of the issues which are the basis of the complaint and in a manner specific enough to enable the licensee to defend against the charges. Likewise, the Board Rules implicated will be cited.
- (b) The complainant, licensee, collateral contacts, available records and documents necessary to gather facts relevant to the alleged violation, will be reviewed.
- (c) Upon completion of the investigation, the Board member will make a recommendation for dismissal or a hearing.
- (d) The Board will consider the recommendations and will vote on either dismissing the complaint or proceeding to disciplinary sanctions. If the complaint is dismissed, the complainant and the licensee will be notified in writing by the Chair.

B. Disciplinary Sanctions

- (1) The Board after a properly noticed and conducted due process hearing may, by majority vote, impose sanctions or discipline, singly or in combination, when it determines that Statutory, Rules or ethical violations, that are subject to an administrative hearing, have occurred and sanctions are in order. All decisions by the Board will be conveyed to the licensee, in writing, by the Chair in the form of a Board Order that makes detailed findings of fact and conclusions of law.
- (2) Specific Sanctions:

- (a) Revocation of the license.
- (b) Suspension of the license, for any period of time.
- (c) Refusal to issue a license.
- (d) Deny an application for license.
- (e) Written reprimand to the licensee.
- (f) Placement of a licensee on probationary status and/or take any other action as proper.

C. Administrative Hearings Procedure

- (1) Hearings will be properly noticed in writing.
- (2) The hearing shall be conducted by the full Board or by a quorum of Board members as specified by law. The Chair or a designed Hearing Officer, will act as moderator for the hearing and individual Board members may question the applicant/licensee and witnesses. The applicant/licensee or his/her representative may likewise question witnesses and present oral arguments on his/her behalf. An official record will be made of the proceedings. Transcripts of the proceedings will be made available upon written request accompanied by payment of the cost of each original transcript or for each copy, only in the case of an appeal.
- (3) Within thirty (30) days of the hearing, or other such time frame as may be determined necessary, a vote of presiding Board members will determine the course of action to take. A simple majority vote will be required on the decision made, with the Chair voting in case of a tie. Written notification will be provided by the Chair of the findings of fact by the Board and a final decision on the issue before the Board, in the form of a Board Order that makes detailed findings of fact and conclusions of law.

Source: *Miss. Code Ann. Sections 73-17-7(2), 73-17-9(e) and 73-17-15(1)*(Rev. 2008).

Rule 3.4      Appeals

Appeals shall be perfected in accordance with the applicable Statute.

Source: *Miss. Code Ann. Sections 73-17-7(2) and 73-17-15(3) and (4)*(Rev. 2008).

Rule 3.5      Restoration and Reinstatement of Licenses

- A. A license may be restored after revocation by the Board upon submission of evidence satisfactory to the Board that the applicant for such restoration of license has removed the disability.
- B. Upon such application for restoration of a license, the Board may grant the applicant a formal hearing upon notice.
- C. If a conviction be subsequently reversed on appeal and the accused acquitted or discharged, his/her license shall become again operative from the date of such acquittal or discharge

Source: *Miss. Code Ann. Sections 73-17-7(2) and 73-17-9(a), (b) and (c)*(Rev.2008).